APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,339	01/31/2001	Takeshi Sato	FUJR 18.275	5975

			EXAMINER
26304	7590	06/10/2004	SHINGLES, KRISTIE D

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ART UNIT	PAPER NUMBER
2141	5

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No 09/773,339	Applicant(s) SATO ET AL.
	Examiner Kristie Shingles	Art Unit 2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *31 January 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All b)☐ Some * c)☐ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date *01/31/01*.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Claims 1-18 are pending.

Priority

1.   Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. JP2000-119625 filed on 04/20/2000.

Information Disclosure Statement

2.   The information disclosure statement (IDS) submitted on 01/31/01 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the Office. An initialed and dated copy of Applicant's IDS form 1449 is attached to the instant Office action.

Abstract

3.   The abstract of the disclosure is objected to because of legal phraseology: the use of "thereby" and "means". Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
> in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
> patent by another filed in the United States before the invention by the applicant for patent, except that an
> international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
> subsection of an application filed in the United States only if the international application designated the United
> States and was published under Article 21(2) of such treaty in the English language.

5.   Claims 1-4 and 10-18 are rejected under 35 U.S.C. 102(e) as being anticipated by

Ginossar (U.S. 6,477,143).

        a.   Per claims 1, 10, and 15 (differs only by purported statutory class), Ginossar

teaches a communication apparatus for communicating with a plurality of stations and executing

regulation control at a time of congestion, comprising:

- congestion monitoring means for monitoring a congestion state, setting a
  congestion level and determining whether or not to perform regulation based on
  said congestion level (col.8 lines 43, 50-53 and co.12 lines 31-35; congestion
  sensing incorporates monitoring);

- traffic measuring means for measuring a traffic intensity (col.12 lines 23-26 and
  43-47; measures traffic intensity by investigating and updating the congestion
  severity from the network);

- traffic comparison means for comparing said traffic intensity with a preset traffic-
  regulation start traffic intensity when it is determined that regulation is to be
  performed (col.12 lines 48-52; traffic comparison is made with respect to
  congestion severity data captured from the network by the router) and

- regulation control means for performing traffic regulation control when a
  comparison result shows that said traffic intensity is equal to or greater than said
  traffic-regulation start traffic intensity, and performing regulation control on a
  maintenance and operation process when said traffic intensity is smaller than said
  traffic-regulation start traffic intensity (col.15 lines 64-col.16 lines 1-14; traffic

regulation control is performed with respect to a maximum segment size threshold determined by the level of congestion severity).

b.   Per claims 2, 11, and 16 (differs only by purported statutory class), Ginossar teaches the communication apparatus according to claims 1, 10 and 15, wherein said congestion monitoring means uses at least one of a processor occupancy rate and a response time with respect to a received signal as an index at a time of setting said congestion level (col.8 lines 61-64 and col.15 lines 54-63; implementation of transmission rate and the timeout period achieves function of processor occupancy rate and response time in congestion monitoring).

c.   Per claims 3, 12, and 17 (differs only by purported statutory class), Ginossar teaches the communication apparatus according to claims 1, 10, and 15, wherein said regulation control means executes said traffic regulation control by changing stations to be regulated and a number of said stations to be regulated (col.9 lines 54-58 and col.13 lines 66-col.14 lines 1-13; traffic regulation control is achieved by changing the sizes of the data segments received from the nodes and essentially preventing node transmission based on the severity of the congestion level from that node).

d.   Per claims 4, 13, and 18 (differs only by purported statutory class), Ginossar teaches the communication apparatus according to claims 1, 10, and 15, wherein said regulation control means counts a number of signals received from a station to be regulated and computes a ratio of a signal to be regulated from a count value, whereby said regulation control means executes said traffic regulation control with a same congestion level in accordance with said ratio (col.9 lines 8-30 and 49-53; adjustments to data sizes are made in regard to sensed congestion level wherein a data segment size value is determined for comparison with the maximum segment size allowable by the router).

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7.   Claims 5-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Gao et al (U.S.

5,548,533).

        a.   Per claims 5 and 9 (differs only by purported statutory class), Gao et al teaches a

mobile communication system for communicating with a plurality of stations and executing

regulation control at a time of congestion, comprising:

- a plurality of mobile communication exchanges for performing exchange control on signals with respect to radio stations (Abstract and col.2 lines 55-60; mobile communications system includes a plurality of base stations each serving mobile handsets and coupled to a mobile switching center controlled by a central processor); and

- a mobile communication control station including a communication apparatus comprising congestion monitoring means for monitoring a congestion state, setting a congestion level and determining whether or not to perform regulation based on said congestion level, traffic measuring means for measuring a number of signals received from said mobile communication exchanges as a traffic intensity, traffic comparison means for comparing said traffic intensity with a preset traffic-regulation start traffic intensity when it is determined that regulation is to be performed, and regulation control means for performing traffic regulation control when a comparison result shows that said traffic intensity is equal to or greater than said traffic-regulation start traffic intensity, and performing regulation control on a maintenance and operation process when said traffic intensity is smaller than said traffic-regulation start traffic intensity (col.2 lines 60-63 and col.1 lines 49-64; central processor and network peripheral processors monitor congestion and configure congestion threshold levels, traffic measuring and comparison comprised in central processor reports, traffic regulation control achieved by comparing message traffic thresholds with data gathered in central processor congestion reports).

b.   Per claim 6, Gao et al teaches the mobile communication system according to claim 5, wherein said congestion monitoring means uses at least one of a processor occupancy rate and a response time with respect to a received signal as an index at a time of setting said congestion level (col.3 lines12-22, col.6 lines 35-56, and col.9 lines 31-48; congestion monitoring makes use of the call processor occupancy and the queue delay).

c.   Per claim 7, Gao et al teaches the mobile communication system according to claim 5, wherein said regulation control means executes said traffic regulation control by changing mobile communication exchanges to be regulated and a number of said mobile communication exchanges to be regulated (col.9 lines 10-26; regulation control implements change by reduction factors chosen according to the congestion level's message threshold).

d.   Per claim 8, Gao et al teaches The mobile communication system according to claim 5, wherein said regulation control means counts a number of signals received from a mobile communication exchange to be regulated and computes a ratio of a signal to be regulated from a count value, whereby said regulation control means executes said traffic regulation control with a same congestion level in accordance with said ratio (col.6 lines 57-64 and col.10 lines 5-22; count values and ratios are maintained for monitoring delayed messages).

Conclusion

9.   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure.

        a.   Kapoor (U.S. 5,751,969) disclosed an apparatus and methods for predicting and

managing congestion in a network.

10.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Kristie Shingles whose telephone number is 703-605-4244. The

examiner can normally be reached on Monday-Friday 8:30-5:00.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Rupal Dharia can be reached on 703-305-4003. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

        Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

                                                        Kristie Shingles
                                                        Examiner
                                                        Art Unit 2141

kds

RUPAL DHARIA
SUPERVISORY PATENT EXAMINER